

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

STEPHEN P. KELLY

PLAINTIFF

V.

Civil No. 06-5179

WAL-MART, INC.;  
CHRISTINE DOWNTON;  
GARY DOWNTON; and  
WAL-MART STORE #2092

DEFENDANT

O R D E R

On this 14<sup>th</sup> day of December 2006, there comes on for consideration the report and recommendation filed in this case on November 13, 2006, by the Honorable Beverly Stites Jones, United States Magistrate for the Western District of Arkansas. (Doc. 5.) On November 16, 2006, Plaintiff filed a motion to amend his complaint which also contained his objections to the report and recommendation (Doc. 6). The court has reviewed this case *de novo* and, being well and sufficiently advised, finds as follows: The report and recommendation is proper and should be and hereby is adopted in its entirety. Accordingly, the Court finds that venue is improper in this district and hereby transfers this case to the Northern District of New York, Watertown Division, Jefferson County Courthouse, Dulles State Office Building, 317 Washington Street, 10<sup>th</sup> Floor, Watertown, New York 13601. The Court leaves the issue of whether the defendants should be served to be decided by the Northern District of New York. Further, Plaintiff's motion to amend his

complaint is DENIED AS MOOT and may be re-filed in the Northern District of New York.

IT IS SO ORDERED.

/s/ Robert T. Dawson  
Honorable Robert T. Dawson  
United States District Judge